

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Fredrick Dewayne Hines,

Plaintiff,

v.

Case No. 16-cv-3797 (DSD/SER)

Michelle Smith, Tammy Whereley, David
Rhesuis, Shar Mike, Sherilinda Wheeler,
Unknown Magadanz, and Dan Meyer,

REPORT AND RECOMMENDATION

Defendants.

STEVEN E. RAU, United States Magistrate Judge

This matter is before the Court on Plaintiff Fredrick Dewayne Hines's ("Hines") most recent Motion for Preliminary Injunction (the "Motion") [Doc. No. 104]. This matter was referred for the resolution of pretrial matters pursuant to 28 U.S.C. § 636(b)(1) and District of Minnesota Local Rule 72.1. For the reasons stated below, the Court recommends denying the Motion for Preliminary Injunction without prejudice.

Prior to the instant Motion, Hines filed two motions for preliminary injunctions in this case, which the Court recommended denying. *See* (R&R Dated Oct. 23, 2017, "Oct. R&R") [Doc. No. 103]. Those recommendations are pending before the Honorable David S. Doty. The instant Motion is identical to the one Hines previously filed: the content and the signature dates are the same. *Compare* [Doc. No. 99], *with* [Doc. No. 104]. Further, the documents filed in support are the same as well. *Compare* [Doc. No. 100], *with* [Doc. Nos. 105–06].¹

The Court recommended denying Hines's earlier, identical motion for preliminary injunction without prejudice because it "relate[d] to matters outside the Complaint and matters

¹ Document Number 100 contains both Hines's declaration and supporting memorandum. *See* [Doc. No. 100 at 1, 23]. These documents were filed separately by the Clerk's Office in connection with the instant Motion. *See* [Doc. Nos. 105–06].

that . . . Hines wants to add to this case” by filing an amended complaint. (Oct. R&R at 8). Also in the October R&R, the Court recommended that Hines be permitted to file an amended complaint, and that “Hines may file a new motion for preliminary injunctive relief **after** he files his amended complaint.” (*Id.* at 9) (emphasis added); *see also* (*id.* at 11–12). Therefore, the Court recommends the Motion be denied without prejudice because the instant Motion is the same as the previous one, and because Hines has not yet filed an amended complaint. Notably, because the R&R is still pending, Hines may not file an amended complaint unless and until Judge Doty adopts the October R&R. *See* (Oct. R&R at 13) (“If this Report and Recommendation is adopted, Hines must file an amended complaint within **thirty (30) days** of an order adopting this Report and Recommendation.”).

Hines’s instant Motion also states that if the Court already received the Motion, he would like it returned to him. The Court declines Hines’s request. Although Hines received *in forma pauperis* (“IFP”) status for this case, he is not entitled to have the documents he himself submitted to the Court returned to him at the Government’s expense. *See Duwenhoeffer v. Miles*, No. 17-cv-1432 (PJS/TNL), 2017 WL 2799155 (D. Minn. June 28, 2017) (Schiltz, J.) (declining to provide a *pro se* party who obtained IFP status with copies of documents he submitted to the Court); *see also Fiveash v. Tom Green County*, 30 F.3d 1493, 1994 WL 398466, at *1 (5th Cir. 1994) (per curiam) (unpublished table decision) (“There is no provision in the statute which gives Fiveash the right to have his pleadings copied and returned to him at Government expense.”). If Hines wishes to obtain copies of the documents he filed, he may request them from the Clerk of Court who will assess Hines a fee of \$.50 per page.

Based on all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that Plaintiff Fredrick Dewayne Hines's Motion for Preliminary Injunction [Doc. No. 104] be **DENIED without prejudice**.

Dated: November 1, 2017

s/Steven E. Rau
STEVEN E. RAU
United States Magistrate Judge

Notice

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore, not appealable directly to the Eighth Circuit Court of Appeals.

Under D. Minn. LR 72.2(b)(1) "a party may file and serve specific written objections to a magistrate judge's proposed findings and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).